



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

August 9, 2018
Agenda Item No. 5

SUBJECT: Accessory Dwelling Unit Ordinance Update (PA2018-099)
▪ Code Amendment No. CA2018-003
▪ Local Coastal Program Amendment No. LC2018-002

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Jaime Murillo, Senior Planner
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PROJECT SUMMARY

Amendments to the Zoning Code and Local Coastal Program revising the City's regulations pertaining to Accessory Dwelling Units (ADU) to conform with Government Code Section 65852.2, as effective January 1, 2018. Specifically, the proposed amendments would update regulations permitting the development of ADUs in conjunction with single-family residences in all residential zoning districts, including two-unit and multiple residential zoning districts.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA;
- 3) Adopt Resolution No. PC2018-025 (Attachment No. PC 1) recommending the City Council approve Zoning Code Amendment No. CA2018-003 modifying regulations pertaining to accessory dwelling units; and
- 4) Adopt Resolution No. PC2018-026 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2018-002 to the California Coastal Commission.

DISCUSSION

Background

In 2016, the State Legislature passed Assembly Bill 2299 (Bloom) and Senate Bill 1069 (Wieckowski) amending California Government Code Section 65852.2 related to ADUs, which took effect on January 1, 2017. The intent of the bills was to reduce barriers to the development of ADUs, which have been found to be an affordable-by-design type of in-fill housing. ADUs can meet the needs of couples, small families, young people, students and seniors by offering new below-market rentals in existing neighborhoods. In addition, homeowners who create ADUs benefit from added income, and increased sense of security.

Cities with ordinances not in compliance with State law must use the State's more lenient ADU standards. The State standards require ministerial approval (no discretionary approval or public hearing) of an ADU in single-family and multi-family zoning districts where only a single-family unit is present, provided other minimal standards are met. Through the adoption of an ordinance, cities have the ability to regulate certain aspects of ADUs, such as location, lot size, unit size, parking, and aesthetics, depending on circumstances.

In response to these bills, the City comprehensively updated its regulations permitting the development of ADUs with the adoption of Ordinance No. 2007-011 (Attachment No. PC 3) by the City Council on August 8, 2017. Additional regulations were adopted to protect neighborhood character and minimize impacts, including the following: 1) limiting ADUs to single-family residential zoning districts only; 2) establishing a minimum lot size of 5,000 square feet or greater and a maximum unit size of 750 square feet for new construction ADUs; and 3) establishing height and design standards to minimize the appearance of two units on a lot.

The City Council also adopted Resolution No. 2017-51 (Attachment No. PC 4), authorizing the submission to the California Coastal Commission (CCC) for review and approval of similar revisions to the City's Local Coastal Program (LCP) for properties located within the Coastal Zone. The LCP amendment is still under review with the CCC.

Summary of Current Regulations

The standards that apply to ADUs depend on whether the proposed ADU will be: 1) newly constructed; or, 2) converted from an existing living space. The standards applicable to ADUs developed through additions or new construction are summarized in Table 1. The standards applicable to ADUs converted from an existing living space are summarized in Table 2. All ADU's require the recordation of a deed restriction requiring owner occupancy of either the principal unit or ADU on the property, and prohibiting the use of the ADU for short-term lodging.

Table 1- Current City Standards ADUs Requiring Additions or New Construction	
Standard	Current City Standard
Location	Single-family residential zoning districts and similar Planned Community or Specific Plan areas. ADUs prohibited in two-family and multi-family zoning districts.
Minimum Lot Size	5,000 square feet or greater.
Unit Size	750 square feet maximum, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
Aesthetics	<p><i>Design:</i> Similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.</p> <p><i>Height:</i> Attached - same height limit as principal unit Detached - limited to 14 feet in height</p>
Passageways	Not required. This is an exemption from Building Code requiring a pathway, clear to the sky, from street to entrance of ADU.
Setbacks	Per Zoning Code, except setbacks are not required for an existing garage that is converted to an ADU, and a setback of no more than 5 feet from a side or rear lot line is required for an ADU that is constructed above a garage.
Parking	<p>A maximum of one space required per unit or bedroom, whichever is greater.</p> <p>Spaces may be provided as uncovered parking, tandem parking on driveway or mechanical lifts. No parking required if within half-mile of public transit stop or one block of a car-share vehicle program.</p>
Fire Sprinklers	ADUs are not required to provide fire sprinklers if they were not required for the principal residence.
Utilities	Connection fees or capacity charges must be proportionate to the impact of the ADU based on either its size or number of plumbing fixtures.

Table 2- Current City Standards ADUs Contained Entirely within Existing Structures	
Standard	Current City Standards (No modifications to State standards allowed)
Location	Within an existing single-family residence or accessory structure on a single-family residential zoned lot.
Minimum Lot Size	No limitation.
Unit Size	No limitation.
Parking	No additional parking required.
Utilities	No new or separate utility connections or connections fees.

Recent Changes in State Law and Proposed Amendment

In late 2017, the State Legislature passed Assembly Bill 494 (Bloom) and Senate Bill 229 (Wieckowski) further amending California Government Code Section 65852.2 related to ADUs, which took effect on January 1, 2018. The intent of these bills was to clarify the various provisions of the 2016 law to promote the development of ADUs. The following table summarizes the more significant changes in law and the City amendments needed, if any.

Table 3 – Recent Changes in State Law & City Amendments	
Changes in State Law	City Amendments
Allowing ADUs to be built concurrently with a proposed single-family residence, as opposed to only when an existing single-family residence exist on a lot	No Existing ordinance provides for concurrent construction of a new ADU with a new single family residence.
Expanding zoning districts where ADUs can be converted from existing floor area within a single-family residence or accessory structure to include all zoning districts that allow single-family uses, as opposed to single-family zoning districts only.	Yes Amendment needed to permit ADU conversions within existing single-family residences located on two-unit (R-2/R-BI) and multiple (RM) residential zoned lots. Staff recommends that ADUs also be allowed as new construction in two-unit and multi-unit zoning districts. See <i>Location</i> Section of report for further details.
Reducing parking requirements for new ADU's from one space required for one-bedroom units and two spaces for two or more bedroom units, to a maximum of one space regardless of bedroom count	Yes Amendment needed to revise parking requirements for consistency. See <i>Parking</i> Section of report for further details.
Modifying fees from utilities, such as special districts and water corporations.	No Affects other agencies.
Local agencies were previously only required to submit a copy of adopted ordinances to the State Department of Housing and Community Development (HCD) within 60 days of adoption. HCD now has the ability to review and comment on submitted ordinances.	No Staff has consulted with HCD and will submit an ordinance once adopted.

Location

Current Regulations - Current regulations permit ADUs in single-family residential zoning districts and areas designated for single-family residential use as part of a Planned Community or Specific Plan. ADUs are currently prohibited in two-unit and multiple residential zoning districts. The rationale for the prohibition was that most two-unit and multiple residential zoned properties are located in coastal neighborhoods of the City with substandard lot sizes and impacted by a lack of on-street parking, such as Corona del Mar, Balboa Peninsula, Balboa Island, and West Newport. Many lots in these neighborhoods are developed with less than the permitted number of units and capacity exists to construct additional density. It was the City's position at the time that redevelopment should occur in conformance with current parking standards (2 spaces per unit) ensuring neighborhood compatibility and preservation of on-street parking for existing residents and visitors to the beaches.

Proposed Regulations - Now that State law requires the approval of ADU *conversions* within single-family residences in any residential zone that allows single-family use (i.e., R-2 and RM zoned lots), staff believes it is appropriate to also allow ADUs as *new construction* in these same zoning districts for the followings reasons:

- The minimum lot size requirement for an ADU consisting of new construction will remain at 5,000 square feet. The coastal neighborhoods where staff was concerned with overburdening the on-street parking consist mainly of sub-standard lots sizes less than 5,000 square feet; therefore, new ADUs would generally remain prohibited in such locations.
- An ADU would be permitted only if developed in conjunction with a proposed or existing single-family dwelling. No additional units would be permitted, limiting development of the property to a total of two units maximum (principal dwelling and ADU). An ADU would be prohibited if two or more units are proposed or exist on the property.
- The size of the ADU would be limited to 750 square feet, which typically accommodates a one bedroom unit. A new construction ADU would also require one parking space to be provided on-site (unless specific exceptions apply). One space is generally adequate for a unit of that size and is not expected to negatively impact the availability of on-street parking.
- Most new duplexes that are constructed in the City are subdivided into condominiums; however, since ADUs are prohibited from being subdivided into condominiums, the ADU would remain a permanent rental unit in the City and provide a more affordable housing option than a for-sale condominium.

- ADUs are prohibited from being rented for periods of less than 30 days. Therefore, problems associated with short-term lodging of units in two-unit and multiple residential zoning districts would be avoided.
- The property owner is required to reside within either the principal unit or the ADU, which promotes owner occupancy, neighborhood stability and pride of ownership, as opposed to a duplex that is rented as an income-producing property and turn-over in tenants.
- The ordinance would be easier to implement and for the public to understand by maintaining one set of regulations applicable to ADUs regardless of zones.

Attachments PC 5 and 6 include exhibits illustrating where ADUs would be permitted as new construction (5,000-square-foot minimum lots) and as conversions (no minimum lot size).

Parking

Current Regulations - The current ordinance establishes flexible parking regulations in compliance with previous State law requirements, including a parking requirement of one space for one-bedroom or efficiency (small studio) units and two spaces required for a unit with two or more bedrooms.

Proposed Regulations - As a result of changes in State law, the proposed ordinance would require only one space per unit, regardless of bedroom count.

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

Local Coastal Plan

Similar to the Zoning Code, the Implementation Plan of the Local Coastal Program (LCP), currently regulates ADUs inconsistent with State law. Therefore, subsequent to City Council adoption of this Zoning Code Amendment, staff will submit corresponding amendments (Attachment No. PC2) to the LCP for review and approval of the California Coastal Commission. In accordance with California Coastal Commission Guidance Memorandums, any eligible projects located in the Coastal Zone that qualify for a Coastal Development Permit (CDP) exemption will be processed consistent with the Zoning Code. Projects that do not qualify for an exemption cannot be processed until the LCP Amendment is approved and adopted.

Alternatives

The Planning Commission may recommend revisions to the draft ordinance, such as changing where ADUs are allowed, minimum lot size, maximum unit sizes, design standards, etc., provided the revisions are consistent with State law limitations and are not arbitrary, excessive, burdensome, or unreasonably restricting the creation of ADUs.

Noncompliance with State law will require the City to utilize the State's more lenient ADU standards until the City modifies its regulation appropriately.

Environmental Review

The project is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states that the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a project for CEQA purposes, and environmental review would not be required prior to approving individual applications.

Public Notice

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Additionally, notice was sent to all persons and agencies on the Notice of the Availability mailing list.

Prepared by:

Submitted by:



Jaime Murillo
Senior Planner



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft resolution recommending approval of Zoning Code Amendment No. CA2018-003
- PC 2 Draft resolution recommending approval of submission of Local Coastal Program Amendment No. LC2018-002

- PC 3 City Council Ordinance No. 2007-011 (Current ADU Zoning Regulations)
- PC 4 City Council Resolution No. 2017-51 (Previously Approved LCP Amendment)
- PC 5 Exhibit- New Construction Locations
- PC 6 Exhibit- Allowed Conversion Locations

Attachment No. PC 1

Draft resolution recommending approval
of Zoning Code Amendment No. CA2018-
003

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RESOLUTION NO. PC2018-025

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF ZONING CODE AMENDMENT NO. CA2018-003 TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2018-099)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. State law (Senate Bill 229 and Assembly Bill 494, Statutes of 2017) requires jurisdictions to amend their local zoning ordinances to conform to California Government Code Section 65852.2.
2. Senate Bill 229 and Assembly Bill 494 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units.
3. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct accessory dwelling units benefit from added income and increased sense of security.
4. Allowing accessory dwelling units in conjunction with single-family residential development provides additional rental housing stock.
5. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
6. A public hearing was held on August 9, 2018, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continues to promote the health, safety, and welfare of the community.
2. The City has designated areas where accessory dwelling units may be located, where permitted by Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
3. As permitted by California Government Code Section 65852.2, the City finds that prohibiting parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents and fire and life safety personnel traveling through the City's narrow alleyways. Also, prohibiting parking in front setbacks, unless located on a driveway a minimum 20 feet in depth, is also essential to ensure that driveways are of sufficient depth to accommodate a vehicle entirely on-site without protruding into the public right-of-way and blocking pedestrian, bicyclist, and vehicular traffic creating a life safety condition.
4. An amendment to the Local Coastal Program (LCP) is also underway to comply with State law. The subject Zoning Code Amendment shall not become effective for projects located in the coastal zone until approval of the subject LCP amendment by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2018-003 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF AUGUST, 2018.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Zak, Chairman

BY: _____
Lauren Kleiman, Secretary

EXHIBIT “A”
Zoning Code Amendment No. CA2018-003

Section 1: Newport Beach Municipal Code (NBMC) Subsection 20.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Zoning District. The R-A zoning district is intended to provide for areas appropriate for detached single-family residential dwelling units; ~~accessory dwelling units~~; and light farming uses, each located on a single legal lot;
- B. R-1 (Single-Unit Residential) Zoning District. The R-1 zoning district is intended to provide for areas appropriate for a range of detached single-family residential dwelling units ~~and accessory dwelling units~~; each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 2: Table 2-1 in NBMC Section 20.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units” row as follows:

Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 20.12 for unlisted uses.	R-A	R-1	R-BI R-2	RM RMD	Specific Use Regulations
Residential Uses					

Accessory Dwelling Units	P	P	<u>P</u>	<u>P</u>	Section 20.48.200
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Section 3: NBMC Section 20.48.200 (Senior Accessory Dwelling Units) is amended in its entirety to read as follows:

20.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this Section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family unit residential use, including as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be ~~approved in all single-unit residential zoning districts~~ in conjunction with single-unit dwellings in all residential zoning districts.

subject to the approval of the Director upon finding that the following conditions have been met:

1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
2. Public and utility services including emergency access are adequate to serve both dwellings.

C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.

1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
5. Design. An accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling

or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:

- a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
 - c. The property is located within a residential zoning district that permits single-unit dwellings and no more than one dwelling unit exists on the property.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 20.40 (Off-Street Parking), except as modified below:
- a. A minimum of one ~~One~~ parking space shall be provided for an accessory dwelling unit. ~~required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.~~
 - b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
 - c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section "public transit" shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.

- iii. Accessory dwelling units located within an architecturally and historically significant historic district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

D. Additional requirements for all accessory dwelling units.

1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

Section 4: The definition of “Dwelling Unit, Accessory (Land Use) in NBMC Section 20.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family ~~dwelling~~ residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

Section 5: Subpart 8 in NBMC Subsection 20.90.090(D) (Accessory Uses Permitted) is amended to read as follows:

8. Accessory dwelling unit in conformance with Section 20.48.200.

Attachment No. PC 2

Draft resolution recommending approval of
submission of Local Coastal Program
Amendment No. LC2018-02

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RESOLUTION NO. PC2018-026

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL AUTHORIZE SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION IMPLEMENTING NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2018-099)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS
AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. State law (Senate Bill 229 and Assembly Bill 494, Statutes of 2017) requires jurisdictions to amend their local zoning ordinances to conform to California Government Code Section 65852.2. Therefore, an amendment to the Local Coastal Program is necessary.
2. Senate Bill 229 and Assembly Bill 494 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units.
3. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct accessory dwelling units benefit from added income and increased sense of security.
4. Allowing accessory dwelling units in conjunction with single-family residential development provides additional rental housing stock.
5. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
6. Pursuant to Section 13515 of the California Code of Regulations, review of the draft LCP amendment was made available and a Notice of the Availability was distributed a minimum of six weeks prior to the anticipated final action date.
7. A public hearing was held on August 9, 2018, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continue to promote the health, safety, and welfare of the community.
2. The City has designated areas where accessory dwelling units may be located, where permitted by Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
3. As permitted by California Government Code Section 65852.2, the City finds that prohibiting parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents and fire and life safety personnel traveling through the City's narrow alleyways. Also, prohibiting parking in front setbacks, unless located on a driveway a minimum 20 feet in depth, is also essential to ensure that driveways are of sufficient depth to accommodate a vehicle entirely on-site without protruding into the public right-of-way and blocking pedestrian, bicyclist, and vehicular traffic creating a life safety condition.
4. The LCP amendments shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.
5. The LCP, including the proposed amendment, will be carried out fully in conformity with the California Coastal Act.
6. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2018-002, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF AUGUST, 2018.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Zak, Chairman

BY: _____
Lauren Kleiman, Secretary

EXHIBIT “A”
Local Coastal Program Amendment No. LC2018-002

Section 1: Newport Beach Municipal Code (NBMC) Subsection 21.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Coastal Zoning District. The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units, ~~accessory dwelling units~~, and light farming uses, each located on a single legal lot, and does not include condominiums or cooperative housing.
- B. R-1 (Single-Unit Residential) Coastal Zoning District. The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units ~~and accessory dwelling units~~, each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 2: Table 21.18-1 in NBMC Section 21.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units” row as follows:

Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.					
	R-A	R-1 R-1-6,000	R-BI R-2 R-2-6,000	RM RM-6,000	Specific Use Regulations
Residential Uses					
Accessory Dwelling Units	A	A	<u>A</u>	<u>A</u>	<u>Section 21.48.200</u>

Section 3: Amend NBMC Section 21.48.200 (Accessory Dwelling Units) to read as follows, with all other provisions of Chapter 21.48 remaining unchanged:

21.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family unit residential use, including as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be approved ~~in all single-unit residential coastal zoning districts in conjunction with single-unit dwellings in all coastal residential zoning districts or areas designated for single-family residential use as part of a Planned~~

~~Community Development Plan or Specific Plan~~, subject to the approval of the Director upon finding that the following conditions have been met:

1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
 2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential coastal zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.
1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
 2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
 3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
 4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
 5. Design. An accessory dwelling unit shall be designed and sited to:

- a. Be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials;
 - b. Protect public access to and along the shoreline areas;
 - c. Protect public views to and along the ocean and scenic coastal areas;
 - d. Protect sensitive coastal resources; and
 - e. Minimize and, where feasible, avoid shoreline hazards.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
 - c. The property is located within a coastal residential zoning district that permits single-unit dwellings and no more than one dwelling unit exists on the property.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking), except as modified below:

- a. ~~A minimum of one~~ One parking space shall be provided for an accessory dwelling unit. ~~required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.~~
- b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
- c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section “public transit” shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
 - iii. Accessory dwelling units located within an architecturally and historically significant historic district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

- D. Additional requirements for all accessory dwelling units.
1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
 2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
 3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
 4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
 5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.
- E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.
- F. Coastal Development Permits.
1. Hearing Exemption. All of the provisions of Chapter 21.52 regarding the review and approval of Coastal Development Permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted.
 2. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64, coastal development permits for accessory dwelling units that are defined as "appealable development" pursuant to Section 21.64.035(A) may be directly appealable to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

Section 4: The definition of "Dwelling Unit, Accessory (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family ~~dwelling~~ residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

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Attachment No. PC 3

City Council Ordinance No. 2007-011
(Current ADU Zoning Regulations)

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ORDINANCE NO. 2017-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING ZONING CODE AMENDMENT NO. CA2017-003 TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2017-069)

WHEREAS, State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local zoning ordinances to conform to California Government Code Section 65852.2;

WHEREAS, Senate Bill 1069 and Assembly Bill 2299 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units;

WHEREAS, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, and others, at or below market prices within existing neighborhoods;

WHEREAS, homeowners who construct accessory dwelling units may benefit from added income and an increased sense of security;

WHEREAS, allowing accessory dwelling units in single-family residential zones provides additional rental housing stock;

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;

WHEREAS, adopting an ordinance consistent with California Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continues to promote the health, safety, and welfare of the community;

WHEREAS, the City has designated areas where accessory dwelling units may be located, when permitted by California Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety;

WHEREAS, a public hearing was held on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. The Planning Commission continued the hearing to June 8, 2017;

WHEREAS, a public hearing was held on June 8, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, on June 8, 2017, the Planning Commission adopted Resolution No. 2058 by a majority vote of 4-1, recommending approval of Zoning Code Amendment No. CA2017-003 to the City Council; and

WHEREAS, a public hearing was held on July 25, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: NBMC Subsections 20.18.010(A) are amended to read as follows:

- A. R-A (Residential-Agricultural) Zoning District. The R-A zoning district is intended to provide for areas appropriate for detached single-family residential dwelling units, accessory dwelling units, and light farming uses, each located on a single legal lot;
- B. R-1 (Single-Unit Residential) Zoning District. The R-1 zoning district is intended to provide for areas appropriate for a range of detached single-family residential dwelling units and accessory dwelling units; each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 2: Table 2-1 in NBMC Section 20.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units" row as follows:

Accessory Dwelling Units	<u>P</u>	<u>P</u>	---	---	<u>Section 20.48.200</u>
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Section 3: Table 2-2 in NBMC Section 20.18.030 (Development Standards for Single-Unit Residential Zoning Districts) is amended, in part, as to the “Density/Intensity” row as follows:

Density/Intensity	<i>Each legal lot shall be allowed one single-unit detached dwelling. In addition, one accessory dwelling unit may be allowed pursuant to Section 20.48.200.</i>
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Section 4: NBMC Subsection 20.30.110(D) (Allowed Encroachments into Setback Areas) is amended to add subpart 16 to read as follows:

16. Accessory Dwelling Units. Accessory dwelling units may be established within required setback areas in compliance with the requirements of Section 20.48.200 (Accessory Dwelling Units).

Section 5: Table 3-10 in NBMC Section 20.40.040 (Off-Street Parking Requirements) is amended, in part, as to the “Accessory Dwelling Units” row as follows:

Accessory Dwelling Units	<u>As required per Section 20.48.200</u>
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Section 6: NBMC Section 20.48.200 (Senior Accessory Dwelling Units) is amended in its entirety to read as follows:

20.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this Section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be approved in all single-unit residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:
 1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
 2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.

1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
5. Design. An accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.

8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
 9. Parking. Parking shall comply with requirements of Chapter 20.40 (Off-Street Parking), except as modified below:
 - a. One parking space required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.
 - b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
 - c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section "public transit" shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
 - iii. Accessory dwelling unit is located within an architecturally and historically significant district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
 - d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.
- D. Additional requirements for all accessory dwelling units.
1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.

2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
 3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
 4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
 5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.
- E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

Section 7: The definition of "Accessory Dwelling Unit (Land Use)" in NBMC Section 20.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Accessory Dwelling Unit (Land Use). See "Dwelling Unit, Accessory."

Section 8: The definition of "Dwelling Unit, Senior Accessory (Land Use) in NBMC Section 20.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

Section 9: Subpart 8 in NBMC Subsection 20.90.060(D) (Accessory Uses Permitted) is amended to read as follows:

8. Accessory dwelling unit in conformance with Section 20.48.200.

Section 10: Subpart 8 in NBMC Subsection 20.90.070(D) (Accessory Uses Permitted) is amended to read as follows:

8. Accessory dwelling unit in conformance with Section 20.48.200.

Section 11: Subpart 8 in NBMC Subsection 20.90.080(D) (Accessory Uses Permitted) is amended to read as follows:

8. Accessory dwelling unit in conformance with Section 20.48.200.

Section 12: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 13: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 14: This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

Section 15: An amendment to the Local Coastal Program (LCP) is also underway to comply with State law. This Zoning Code Amendment shall not become effective for projects located in the coastal zone for which the LCP is applicable until approval of the subject LCP amendment by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.

Section 16: Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 17: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 25th day of July, 2017, and adopted on the 8th day of August, 2017, by the following vote, to-wit:

AYES: Council Member Scott Peotter, Council Member Jeff Herdman, Council Member Brad Avery, Council Member Diane Dixon, Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon

NAYS: None



KEVIN MULDOON, MAYOR

ATTEST:



LEILANI I. BROWN, CITY CLERK



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

 (See)

AARON C. HARP, CITY ATTORNEY

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing ordinance, being Ordinance No. 2017-11 was duly introduced on the 25th day of July, 2017 at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 8th day of August, 2017, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Jeff Herdman, Council Member Brad Avery,
Council Member Diane Dixon, Council Member Scott Peotter, Council
Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 9th day of August, 2017.



Leilani I. Brown, MMC
City Clerk
City of Newport Beach, California

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2017-11 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance: July 29, 2017
Adopted Ordinance: August 12, 2017

In witness whereof, I have hereunto subscribed my name this _____ day of _____, 2017.

Leilani I. Brown, MMC
City Clerk
City of Newport Beach, California

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Attachment No. PC 4

City Council Resolution No. 2017-51
(Previously Approved LCP Amendment)

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RESOLUTION NO. 2017-51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2017-003 TO THE CALIFORNIA COASTAL COMMISSION IMPLEMENTING NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2017-069)

WHEREAS, State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local zoning ordinances to conform to California Government Code Section 65852.2;

WHEREAS, Senate Bill 1069 and Assembly Bill 2299 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units;

WHEREAS, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, and others, at below market prices within existing neighborhoods;

WHEREAS, homeowners who construct accessory dwelling units may benefit from added income and an increased sense of security;

WHEREAS, allowing accessory dwelling units in single-family residential zones provides additional rental housing stock;

WHEREAS, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;

WHEREAS, adopting an ordinance consistent with California Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continues to promote the health, safety, and welfare of the community;

WHEREAS, the City has designated areas where accessory dwelling units may be located, when permitted by California Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety;

WHEREAS, a public hearing was held on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. The Planning Commission continued the hearing to June 8, 2017;

WHEREAS, a public hearing was held on June 8, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, on June 8, 2017, the Planning Commission adopted Resolution No. 2057 by a majority vote of 4-1, recommending approval of Local Coastal Program Amendment No. LC2017-003 to the City Council;

WHEREAS, a public hearing was held on July 25, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

WHEREAS, pursuant to Section 13515 of Title 14, Division 5.5, of the California Code of Regulations, review drafts of LCP Amendment No. LC2017-003 were made available and a notice of the availability was distributed a minimum of six weeks prior the City Council public hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council does hereby authorize City staff to submit LCP Amendment No. LC2017-003 to the California Coastal Commission for review and approval, as attached in Exhibit A, and incorporated herein by reference.

Section 2: LCP Amendment No. LC2017-003 shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council of the City of Newport Beach.

Section 3: The LCP including the proposed amendment will be carried out fully in conformity with the California Coastal Act.

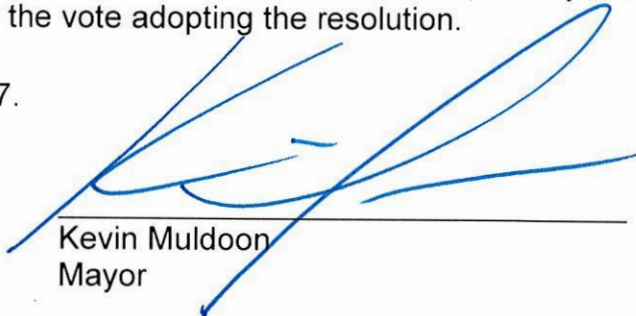
Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.


Section 6: This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 25th day of July, 2017.


Kevin Muldoon
Mayor

ATTEST:


Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


 (for)
Aaron C. Harp
City Attorney

EXHIBIT “A”
Local Coastal Program Amendment No. LC2017-003

Section 1: Amending Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan to add Policy 2.7-5 as follows, with all other provisions of the Coastal Land Use Plan remaining unchanged:

2.7-5. Administer the provisions of Government Code Section 65852.2 relative to the development of accessory dwelling units to increase the supply of lower-cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act. .

Section 2: Newport Beach Municipal Code (NBMC) Subsection 21.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Coastal Zoning District. The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units, accessory dwelling units, and light farming uses, each located on a single legal lot, and does not include condominiums or cooperative housing.
- B. R-1 (Single-Unit Residential) Coastal Zoning District. The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units and accessory dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 3: Table 21.18-1 in NBMC Section 21.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units” row as follows:

Accessory Dwelling Units	A	A	---	---	<u>Section 21.48.200</u>
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Section 4: Table 21.18-2 in NBMC Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) is amended, in part, as to the “Density/Intensity” row as follows:

Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling. <u>In addition, one accessory dwelling unit may be allowed.</u>
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Section 5: NBMC Subsection 21.31.110(D) (Allowed Encroachments into Setback Areas) is amended to add subpart 16 to read as follows:

16. Accessory Dwelling Units. Accessory dwelling units may be established within required setback areas in compliance with the requirements of Section 21.48.200 (Accessory Dwelling Units).

Section 6: Table 3-10 in NBMC Section 21.41.040 (Off-Street Parking Requirements) is amended, in part, as to the "Accessory Dwelling Units" row as follows:

Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site. <u>As required per Section 21.48.200</u>
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Section 7: Amend NBMC Chapter 21.48 to add Section 21.48.200 (Accessory Dwelling Units) to read as follows, with all other provisions of Chapter 21.48 remaining unchanged:

21.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be approved in all single-unit residential coastal zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, subject to the approval of the Director upon finding that the following conditions have been met:
 - 1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
 - 2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential coastal zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.
 - 1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
 - 2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.

3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
5. Design. An accessory dwelling unit shall be designed and sited to:
 - a. Be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials;
 - b. Protect public access to and along the shoreline areas;
 - c. Protect public views to and along the ocean and scenic coastal areas;
 - d. Protect sensitive coastal resources; and
 - e. Minimize and, where feasible, avoid shoreline hazards.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking), except as modified below:

- a. One parking space required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.
- b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
- c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section "public transit" shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
 - iii. Accessory dwelling unit is located within an architecturally and historically significant district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

- D. Additional requirements for all accessory dwelling units.
1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
 2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
 3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
 4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
 5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.
- E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.
- F. Coastal Development Permits.
1. Hearing Exemption. All of the provisions of Chapter 21.52 regarding the review and approval of Coastal Development Permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted.
 2. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64, coastal development permits for accessory dwelling units that are defined as "appealable development" pursuant to Section 21.64.035(A) may be directly appealable to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

Section 8: The definition of "Accessory Dwelling Unit (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Accessory Dwelling Unit (Land Use). See "Dwelling Unit, Senior Accessory."

Section 9: The definition of "Dwelling Unit, Senior Accessory (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

~~Dwelling Unit, Senior Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of 1 or 2 adult persons who are 55 years of age or older. The floor area of the unit does not exceed 640 square feet.~~

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

Section 10: Subpart 8 in NBMC Subsection 21.90.060(D) (Accessory Uses Permitted) is amended to read as follows:

~~8. Granny unit, attached or detached, in conformance with Section 20.48.200, subject to the approval of a minor use permit per Part 5 of this title.~~

8. Accessory dwelling unit in conformance with Section 21.48.200.

STATE OF CALIFORNIA
COUNTY OF ORANGE
CITY OF NEWPORT BEACH

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ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2017-51 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 25th day of July, 2017, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Jeff Herdman, Council Member Brad Avery, Council Member Diane Dixon, Council Member Scott Peotter, Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 26th day of July, 2017.



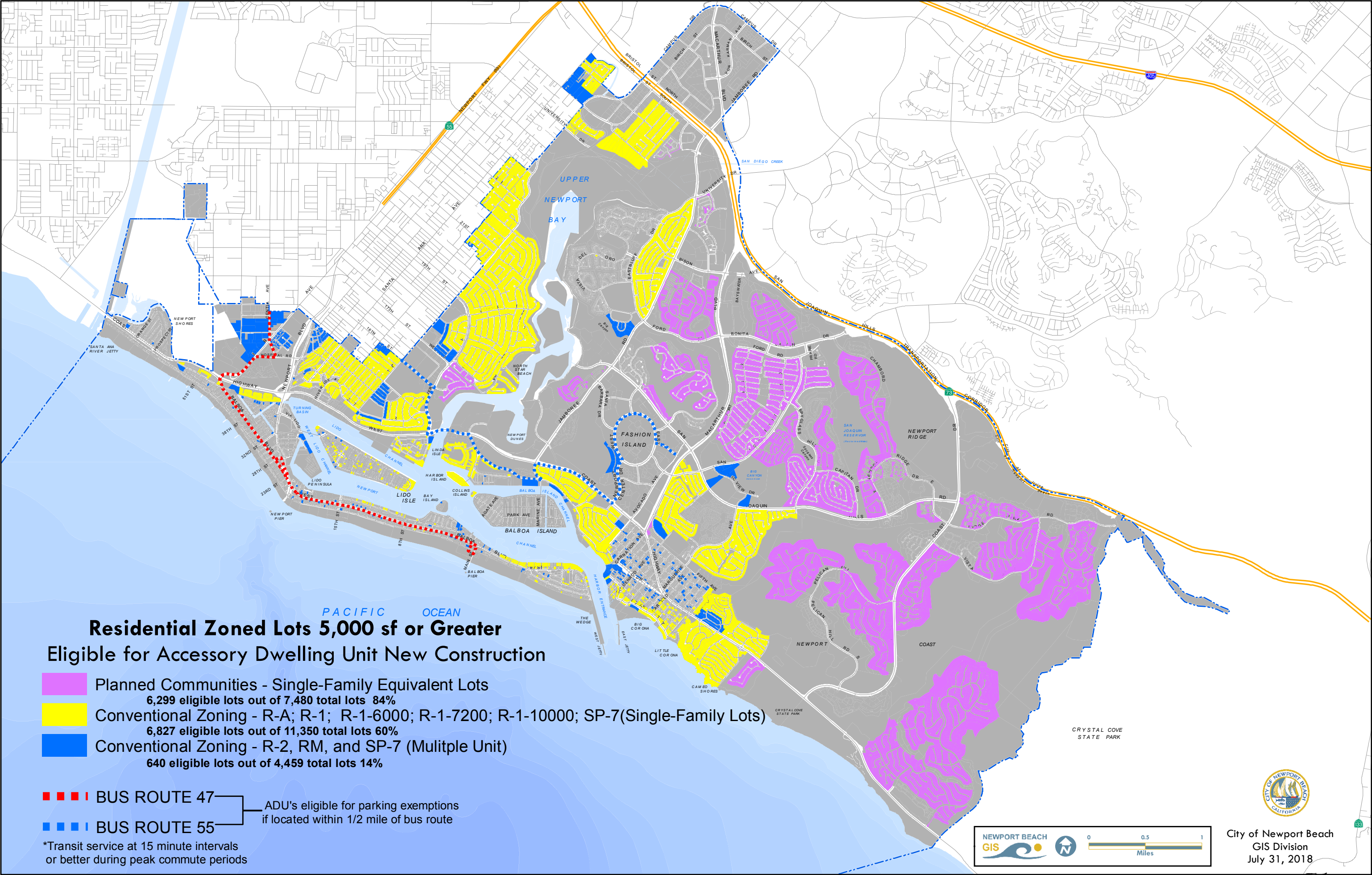
Leilani I. Brown
City Clerk
Newport Beach, California



Attachment No. PC 5

Exhibit- New Construction Locations

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Attachment No. PC 6

Exhibit- Allowed Conversion Locations

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